

HB0496S02 compared with HB0496S01

~~{deleted text}~~ shows text that was in HB0496S01 but was deleted in HB0496S02.

inserted text shows text that was not in HB0496S01 but was inserted into HB0496S02.

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~~{Representative David Clark}~~Senator Curtis S. Bramble proposes the following substitute bill:

TECHNOLOGY AND LIFE SCIENCE ECONOMIC DEVELOPMENT ACT AND RELATED TAX CREDITS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: David Clark

Senate Sponsor: ~~{~~Curtis S. Bramble

LONG TITLE

General Description:

This bill enacts the Technology and Life Science Economic Development Act and provides for income tax credits related to certain technology and life science companies.

Highlighted Provisions:

This bill:

- ▶ ~~{amends}~~enacts a nonrefundable income tax credit related to certain capital gain transactions related to a life science establishment;
- ▶ enacts a nonrefundable income tax credit related to the purchase of an ownership

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interest in certain business entities;

- ▶ enacts a refundable income tax ~~{credits}~~ credit for certain business entities that generate an increase in state tax revenues;
- ▶ enacts the Technology and Life Science Economic Development Act, including:
 - defining terms;
 - granting rulemaking authority;
 - authorizing the Governor's Office of Economic Development to enter into an agreement with ~~{an eligible business entity that will generate increased state tax revenues within the state; and}~~ certain persons;
 - establishing procedures to certify a tax credit and issue a tax credit certificate;
and
 - ~~{requires a report to and a study by the Workforce Services and Community and Economic Development Interim Committee and the Revenue and Taxation Interim Committee}~~ requiring certain reports and studies; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

~~{None}~~ This bill appropriates:

- ▶ to the Governor's Office of Economic Development - Administration as a one-time appropriation:
 - from the General Fund, \$200,000, subject to intent language stating that the appropriation shall be used to administer the tax credits enacted in this bill.

Other Special Clauses:

This bill provides for effective dates.

Utah Code Sections Affected:

~~{AMENDS:~~

~~———— 59-10-1022, as enacted by Laws of Utah 2008, Chapter 389~~

~~{ENACTS:~~

~~59-7-614.6, Utah Code Annotated 1953~~

~~59-10-1025, Utah Code Annotated 1953~~

59-10-1026, Utah Code Annotated 1953

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59-10-1109, Utah Code Annotated 1953

63M-1-2901, Utah Code Annotated 1953

63M-1-2902, Utah Code Annotated 1953

63M-1-2903, Utah Code Annotated 1953

63M-1-2904, Utah Code Annotated 1953

63M-1-2905, Utah Code Annotated 1953

63M-1-2906, Utah Code Annotated 1953

63M-1-2907, Utah Code Annotated 1953

63M-1-2908, Utah Code Annotated 1953

63M-1-2909, Utah Code Annotated 1953

63M-1-2910, Utah Code Annotated 1953

63M-1-2911, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-7-614.6 is enacted to read:

59-7-614.6. Refundable tax credit for certain business entities generating state tax revenue increases.

(1) As used in this section:

~~{ (a) "Eligible business entity" means a corporation that is an eligible business entity as defined in Section 63M-1-2902.~~

† ~~{(b)}~~a "Eligible ~~{new state tax revenues}~~business entity" is as defined in Section 63M-1-2902.

~~{(c)}~~b "Office" means the Governor's Office of Economic Development.

~~{(d)}~~c "Pass-through entity" is as defined in Section 59-10-1402.

~~{(e)}~~d "Pass-through entity taxpayer" is as defined in Section 59-10-1402.

(2) Subject to the other provisions of this section, an eligible business entity may:

(a) claim a refundable tax credit ~~{equal to the amount of eligible new state tax revenues generated by the eligible business entity}~~as provided in Subsection (3); or

(b) if the eligible business entity is a pass-through entity, pass through to one or more pass-through entity taxpayers ~~of the pass-through entity~~, in accordance with Chapter 10, Part 14, ~~{Pass-Through}~~Pass-through Entities and ~~{Pass-Through}~~Pass-through Entity Taxpayers

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Act, a refundable tax credit that the eligible business entity could otherwise claim under this section.

(3) ~~The~~(a) Except as provided in Subsection (3)(b), the amount of the tax credit ~~for~~ an eligible business entity may claim or pass through is the amount listed ~~as the amount of eligible new state tax revenues generated by the eligible business entity~~ on the tax credit certificate that the office issues to the eligible business entity for a taxable year in accordance with Section 63M-1-2908.

(b) A tax credit under this section may not exceed the eligible new state tax revenues generated by an eligible business entity for the taxable year for which the eligible business entity claims a tax credit under this section.

(4) An eligible business entity ~~+~~

~~(a) +~~ may only claim or pass through a tax credit under this section:

(a) for a taxable year for which the eligible business entity holds a tax credit certificate issued in accordance with Section 63M-1-2908; and

(b) subject to obtaining a tax credit certificate for each taxable year as required by Subsection (4)(a):

(i) for the taxable year in which the eligible business entity first generates eligible new state tax revenues; and

(ii) for two taxable years immediately following the year described in Subsection (4)(~~a~~~~b~~)(i) ~~+~~ and ~~+~~.

~~(b) 5~~ An eligible business entity may not:

(a) carry forward or carry back a tax credit under this section ~~+~~

~~+~~ or

(b) claim or pass through a tax credit in an amount greater than the amount listed on a tax credit certificate issued in accordance with Section 63M-1-2908 for a taxable year.

Section 2. Section ~~{59-10-1022}~~ 59-10-1025 is ~~{amended}~~ enacted to read:

~~{59-10-1022}~~ 59-10-1025. ~~{ Nonrefundable}~~ Nonrefundable tax credit for ~~{capital gain transactions}~~ investment in certain life science establishments.

(1) As used in this section:

~~(a) (i)~~ "Capital gain transaction" means a transaction that results in a:

~~(A)~~ short-term capital gain; or

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~~— (B) long-term capital gain.~~

~~— (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "transaction."~~

~~— (b) "Commercial domicile" means the principal place from which the trade or business of a Utah small business corporation is directed or managed.~~

~~(c) "Long-term capital gain" Eligible claimant, estate, or trust" is as defined in Section 1222, Internal Revenue Code.~~

~~— (d) 63M-1-2902.~~

(c) "Life science establishment" means an establishment described in one of the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(i) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(ii) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus

Manufacturing; or

(iii) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(d) "Office" means the Governor's Office of Economic Development.

(e) "Pass-through entity" and "pass-through entity taxpayer" are is as defined in Section 59-10-1402.

~~— (d) (e) "Qualifying stock" (f) "Pass-through entity taxpayer" is as defined in Section 59-10-1402.~~

(g) "Qualifying ownership interest" means stock that is an ownership interest that is:

(i) (A) common stock; or

(B) preferred stock; or

(C) an ownership interest in a pass-through entity;

~~(ii) [as defined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,]~~ (ii) originally issued to:

(A) an eligible claimant, estate, or trust; or

(B) a partnership pass-through entity if the eligible claimant, estate, or trust that claims a tax credit under this section was a partner pass-through entity taxpayer of the pass-through entity on the day on which the stock qualifying ownership interest was

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issued ~~[(f)]~~ and ~~[(f)]~~ remains a ~~[(partner)]~~ pass-through entity taxpayer of the pass-through entity until the last day of the taxable year for which the eligible claimant, estate, or trust claims a tax credit under this section; and

(iii) issued:

(A) by a Utah small business corporation;

(B) on or after January 1, ~~2008~~ 2011; and

(C) for ~~[(f)]~~ money ~~[(f)]~~ or ~~[(f)]~~ other property, except for stock or securities. ~~f~~

~~[(e)] (f) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.~~

~~[(f)] (g) (i) }~~

(h) (i) Except as provided in Subsection (1)(h)(ii), "Utah small business corporation" means a corporation that:

~~[(A) except as provided in Subsection (1)(f)(g)(ii), is a small business corporation] is~~
as defined in Section ~~1244(c)(3), Internal Revenue Code;~~

~~[(B) except as provided in Subsection (1)(f)(g)(iii), meets the requirements of Section 1244(c)(1)(C), Internal Revenue Code; and~~

~~[(C) has its commercial domicile in this state.] 59-10-1022.~~

(ii) For purposes of this section ~~f~~:

~~[(ii) The] (A) the dollar amount listed in Section 1244(c)(3)(A), Internal Revenue Code, is considered to be \$2,500,000[.]; and~~

~~[(B)]~~, a corporation under Section 1244(c)(3)(A), Internal Revenue Code, is considered to include a pass-through entity.

~~[(iii) The phrase "the date the loss on such stock was sustained" in Sections 1244(c)(1)(C) and 1244(c)(2), Internal Revenue Code, is considered to be "the last day of the taxable year for which the claimant, estate, or trust claims a tax credit under this section."~~

~~[(2) [(For)] Subject to the other provisions of this section, for a taxable [(years] year] year~~ beginning on or after January 1, ~~2008~~ 2011, ~~[(a)]~~ an eligible claimant, estate, or trust that ~~[(meets the requirements of Subsection (3) or Subsection (4))] holds a tax credit certificate issued to the eligible claimant, estate, or trust in accordance with Section 63M-1-2908 for that taxable year~~ may claim a nonrefundable tax credit ~~[(equal to)] in an amount up to 35% of the purchase price of a qualifying ownership interest in a Utah small business corporation by the claimant, estate, or trust if:~~

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(a) the qualifying ownership interest is issued by a Utah small business corporation that is a life science establishment;

(b) the qualifying ownership interest in the Utah small business corporation is purchased for at least \$25,000;

(c) the eligible claimant, estate, or trust owned less than 30% of the qualifying ownership interest of the Utah small business corporation at the time of the purchase of the qualifying ownership interest; and

(d) on each day of the taxable year of the purchase of the qualifying ownership interest, the Utah small business corporation described in Subsection (2)(a) has at least 50% of its employees in the state.

(3) Subject to Subsection (4), the tax credit under Subsection (2):

(a) may only be claimed by the eligible claimant, estate, or trust:

(i) for a taxable year for which the eligible claimant, estate, or trust holds a tax credit certificate issued in accordance with Section 64M-1-2908; and

(ii) subject to obtaining a tax credit certificate for each taxable year as required by Subsection (3)(a)(i), for a period of three taxable years as follows:

(A) the tax credit in the taxable year of the purchase of the qualifying ownership interest may not exceed 10% of the purchase price of the qualifying ownership interest;

(B) the tax credit in the taxable year after the taxable year described in Subsection (3)(a)(ii)(A) may not exceed 10% of the purchase price of the qualifying ownership interest; and

(C) the tax credit in the taxable year two years after the taxable year described in Subsection (3)(a)(ii)(A) may not exceed 15% of the purchase price of the qualifying ownership interest; and

(b) may not exceed the lesser of:

(i) the amount listed on the tax credit certificate issued in accordance with Section 63M-1-2908; or

(ii) \$350,000 in a taxable year.

(4) An eligible claimant, estate, or trust may not claim a tax credit under this section for a taxable year if the eligible claimant, estate, or trust:

(a) has sold any of the qualifying ownership interest during the taxable year; or

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(b) does not hold a tax credit certificate for that taxable year that is issued to the eligible claimant, estate, or trust by the office in accordance with Section 63M-1-2908.

(5) If a Utah small business corporation in which an eligible claimant, estate, or trust purchases a qualifying ownership interest fails, dissolves, or otherwise goes out of business, the eligible claimant, estate, or trust may not claim both the tax credit provided in this section and a capital loss on the qualifying ownership interest.

(6) A claimant, estate, or trust may not carry forward or carry back a tax credit under this section.

Section 3. Section 59-10-1026 is enacted to read:

59-10-1026. Nonrefundable tax credit for capital gain transactions related to a life science establishment.

(1) As used in this section:

(a) (i) "Capital gain transaction" means a transaction that results in a short-term capital gain or long-term capital gain.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall by rule define the term "transaction."

(b) "Commercial domicile" means the principal place from which the trade or business of a Utah small business corporation is directed or managed.

(c) "Eligible claimant, estate, or trust" is as defined in Section 63M-1-2902.

(d) "Life science establishment" means an establishment described in one of the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(i) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(ii) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus

Manufacturing; or

(iii) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(e) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.

(f) "Office" means the Governor's Office of Economic Development.

(g) "Pass-through entity" is as defined in Section 59-10-1402.

(h) "Pass-through entity taxpayer" is as defined in Section 59-10-1402.

(i) "Qualifying ownership interest" means an ownership interest that is:

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(i) (A) common stock;

(B) preferred stock; or

(C) an ownership interest in a pass-through entity;

(ii) originally issued to:

(A) an eligible claimant, estate, or trust; or

(B) a pass-through entity if the eligible claimant, estate, or trust that claims a tax credit

under this section was a pass-through entity taxpayer of the pass-through entity on the day on which the qualifying ownership interest was issued and remains a pass-through entity taxpayer of the pass-through entity until the last day of the taxable year for which the eligible claimant, estate, or trust claims a tax credit under this section; and

(iii) issued:

(A) by a Utah small business corporation;

(B) on or after January 1, 2011; and

(C) for money or other property, except for stock or securities.

(j) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.

(k) (i) Except as provided in Subsection (1)(k)(ii), "Utah small business corporation" is as defined in Section 59-10-1022.

(ii) For purposes of this section, a corporation under Section 1244(c)(3)(A), Internal Revenue Code, is considered to include a pass-through entity.

(2) Subject to the other provisions of this section, for a taxable year beginning on or after January 1, 2011, an eligible claimant, estate, or trust that holds a tax credit certificate issued to the eligible claimant, estate, or trust in accordance with Section 63M-1-2908 for that taxable year and meets the requirements of Subsection (3) may claim a nonrefundable tax credit equal to the lesser of:

(a) the amount shown on the tax credit certificate issued to the eligible claimant, estate, or trust by the office in accordance with Section 63M-1-2908; or

(b) the product of:

(~~f~~a) i) the total amount of the eligible claimant's, estate's, or trust's short-term capital gain or long-term capital gain on a capital gain transaction that occurs on or after January 1, ~~f~~2008 2011; and

(~~f~~b) ii) ~~f~~5% the tax rate imposed under Subsection 59-10-104(2)(b).~~f~~

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~~_____ (3) [For purposes of Subsection (2), a] A claimant, estate, or trust may claim the nonrefundable tax credit allowed by Subsection (2) if:~~

~~_____ (a) 70% or more of the gross proceeds of the capital gain transaction are expended:~~

~~_____ (i) to purchase a qualifying [stock] ownership interest in a Utah small business corporation; and~~

~~_____ (ii) within a 12-month period after the day on which the capital gain transaction occurs; and~~

~~_____ (b) prior to the purchase of the qualifying [stock] ownership interest described in Subsection (3)(a)(i), the claimant, estate, or trust did not have an ownership interest in the Utah small business corporation that issued the qualifying [stock] ownership interest.~~

~~_____ (4) A }~~

(3) An eligible claimant, estate, or trust may claim the nonrefundable tax credit allowed by Subsection (2) if:

(a) the gross proceeds of the capital gain transaction result from the sale of a qualifying ownership interest:

(i) held for at least two taxable years before the sale of the qualifying ownership interest; and

(ii) in a Utah small business corporation {described in one of the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

~~_____ (A) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;~~

~~_____ (B) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or~~

~~_____ (C) NAICS Code 334517, Irradiation Apparatus Manufacturing} that is a life science establishment; and~~

(b) on each day of the taxable year of the capital gain transaction, the Utah small business corporation described in Subsection (~~(4)~~3)(a) has at least 50% of its employees in the state.

~~{(4)}{(5)} {A} An eligible claimant, estate, or trust may not:~~

(a) carry forward or carry back a tax credit under this section; or

(b) claim a tax credit for a taxable year for which the eligible claimant, estate, or trust

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does not hold a tax credit certificate issued to the eligible claimant, estate, or trust for that taxable year by the office in accordance with Section 63M-1-2908.

~~f(5);f(6)~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission ~~may~~shall make rules:

(a) defining the term "gross proceeds"; and

(b) prescribing the circumstances under which ~~fa~~an eligible claimant, estate, or trust has ~~an~~a qualifying ownership interest in a Utah small business corporation.

~~Section 3. Section 59-10-1025 is enacted to read:~~

~~59-10-1025. Nonrefundable tax credit for investment in certain businesses.~~

~~(1) As used in this section:~~

~~(a) "Commercial domicile" means the principal place from which the trade or business of a Utah small business corporation is directed or managed.~~

~~(b) "Pass-through entity" and "pass-through entity taxpayer" are as defined in Section 59-10-1402.~~

~~(c) "Qualifying ownership interest" means an ownership interest that is:~~

~~(i) (A) common stock;~~

~~(B) preferred stock; or~~

~~(C) an ownership interest in a pass-through entity;~~

~~(ii) originally issued to:~~

~~(A) a claimant, estate, or trust; or~~

~~(B) a pass-through entity if the claimant, estate, or trust that claims a tax credit under this section was a pass-through entity taxpayer on the day on which the stock was issued and remains a pass-through entity taxpayer until the last day of the taxable year for which the claimant, estate, or trust claims a tax credit under this section; and~~

~~(iii) issued:~~

~~(A) by a Utah small business corporation;~~

~~(B) on or after January 1, 2011; and~~

~~(C) for money or other property, except for stock or securities.~~

~~(d) (i) "Utah small business corporation" means a corporation that:~~

~~(A) except as provided in Subsection (1)(d)(ii), is a small business corporation as defined in Section 1244(c)(3), Internal Revenue Code;~~

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~~—— (B) except as provided in Subsection (1)(d)(iii), meets the requirements of Section 1244(c)(1)(C), Internal Revenue Code; and~~

~~—— (C) has its commercial domicile in this state;~~

~~—— (ii) For purposes of this section:~~

~~—— (A) the dollar amount listed in Section 1244(c)(3)(A), Internal Revenue Code, is considered to be \$2,500,000; and~~

~~—— (B) a corporation under Section 1244(c)(3)(A), Internal Revenue Code, is considered to include a pass-through entity;~~

~~—— (iii) The phrase "the date the loss on such stock was sustained" in Sections 1244(c)(1)(C) and 1244(c)(2), Internal Revenue Code, is considered to be "the last day of the taxable year for which the claimant, estate, or trust claims a tax credit under this section."~~

~~—— (2) Subject to the other provisions of this section, for a taxable year beginning on or after January 1, 2011, a claimant, estate, or trust may claim a nonrefundable tax credit in an amount up to 35% of the purchase price of a qualifying ownership interest if:~~

~~—— (a) the qualifying ownership interest is issued by a Utah small business corporation described in one of the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:~~

~~—— (i) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;~~

~~—— (ii) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or~~

~~—— (iii) NAICS Code 334517, Irradiation Apparatus Manufacturing;~~

~~—— (b) the qualifying ownership interest in the Utah small business corporation is purchased for at least \$25,000;~~

~~—— (c) the claimant, estate, or trust owned less than 30% of the qualifying ownership interest of the Utah small business corporation at the time of the purchase of the qualifying ownership interest; and~~

~~—— (d) on each day of the taxable year of the purchase of the qualifying ownership interest, the Utah small business corporation described in Subsection (2)(a) has at least 50% of its employees in the state;~~

~~—— (3) Except as provided in Subsection (4), the tax credit under Subsection (2) shall be~~

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~~claimed during a period of three taxable years as follows:~~

~~—— (a) (i) the tax credit in the taxable year of the purchase of the qualifying ownership interest may not exceed 10% of the purchase price of the qualifying ownership interest;~~

~~—— (ii) the tax credit in the taxable year after the taxable year described in Subsection (3)(a)(i) may not exceed 10% of the purchase price of the qualifying ownership interest; and~~

~~—— (iii) the tax credit in the taxable year two years after the taxable year described in Subsection (3)(a)(i) may not exceed 15% of the purchase price of the qualifying ownership interest; and~~

~~—— (b) may not exceed \$350,000 in a taxable year;~~

~~—— (4) A claimant, estate, or trust may not claim a tax credit under this section for a taxable year if the claimant, estate, or trust has sold any of the qualifying ownership interest during the taxable year.~~

~~—— (5) If a Utah small business corporation from which a claimant, estate, or trust purchases a qualifying ownership interest fails, dissolves, or otherwise goes out of business, the claimant, estate, or trust may not claim both the tax credit provided in Subsection (2) and a capital loss on the qualifying ownership interest.~~

~~—— (6) A claimant, estate, or trust may not carry forward or carry back a tax credit under this section.}~~

Section 4. Section **59-10-1109** is enacted to read:

59-10-1109. Refundable tax credit for certain business entities generating state tax revenue increases.

(1) As used in this section:

~~{ —— (a) "Eligible business entity" means a claimant, estate, or trust that is an eligible business entity as defined in Section 63M-1-2902.~~

~~† (b)a) "Eligible ~~{new state tax revenues}~~business entity" is as defined in Section 63M-1-2902.~~

(b) "Eligible new state tax revenues" is as defined in Section 63M-1-2902.

(c) "Office" means the Governor's Office of Economic Development.

(d) "Pass-through entity" is as defined in Section 59-10-1402.

(e) "Pass-through entity taxpayer" is as defined in Section 59-10-1402.

(2) Subject to the other provisions of this section, an eligible business entity may:

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(a) claim a refundable tax credit ~~{equal to the amount of eligible new state tax revenues generated by the eligible business entity}~~ as provided in Subsection (3); or

(b) if the eligible business entity is a pass-through entity, pass through to one or more pass-through entity taxpayers of the pass-through entity, in accordance with Chapter 10, Part 14, ~~{Pass-Through}~~ Pass-through Entities and ~~{Pass-Through}~~ Pass-through Entity Taxpayers Act, a refundable tax credit that the eligible business entity could otherwise claim under this section.

(3) ~~{The}~~ (a) Except as provided in Subsection (3)(b), the amount of the tax credit is:

~~{a}~~ i for an eligible business entity, an amount up to the amount listed ~~{as the amount of eligible new state tax revenues generated by the eligible business entity}~~ on the tax credit certificate that the office issues to the eligible business entity for the taxable year in accordance with Section 63M-1-2908; or

~~{b}~~ ii for a pass-through entity taxpayer, an amount up to the amount of a tax credit that an eligible business entity passes through to the pass-through entity taxpayer of the pass-through entity in accordance with Subsection (2)(b) or Subsection 59-7-614.6(2)(b).

(b) A tax credit under this section may not exceed the eligible new state tax revenues generated by an eligible business entity for the taxable year for which the eligible business entity claims a tax credit under this section.

(4) An eligible business entity ~~{~~

~~{a} may}~~ or pass-through entity taxpayer to which an eligible business entity passes through a tax credit in accordance with Subsection (2)(b) or Subsection 59-7-614.6(2)(b) may only claim or pass through a tax credit under this section for:

(a) a taxable year for which the eligible business entity holds a tax credit certificate issued in accordance with Section 63M-1-2908; and

(b) subject to obtaining a tax credit certificate for each taxable year as required by Subsection (4)(a):

(i) the taxable year in which the eligible business entity first generates eligible new state tax revenues; and

(ii) two taxable years following the year described in Subsection (4)(~~{a}~~ b)(i) ~~{~~ and ~~{b} may not}~~.

(5) An eligible business entity or a pass-through entity taxpayer may not:

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(a) carry forward or carry back a tax credit under this section ~~†~~; or

(b) claim a tax credit under both this section and Section 59-7-614.6.

Section 5. Section **63M-1-2901** is enacted to read:

Part 29. Technology and Life Science Economic Development Act

63M-1-2901. Title.

This part is known as the "Technology and Life Science Economic Development Act."

Section 6. Section **63M-1-2902** is enacted to read:

63M-1-2902. Definitions.

As used in this part:

(1) "Board" means the Governor's Office of Economic Development Board of

Directors.

(2) "Claimant" is as defined in Section 59-10-1002.

~~††~~3) "Eligible business entity" means a person that:

(a) enters into an agreement with the office ~~to produce an eligible product or project in Utah that will generate eligible new state tax revenues;~~

~~_____ (b) is described in one of the following NAICS codes;~~ in accordance with this part to receive a tax credit certificate for a tax credit under Section 59-7-614.6 or 59-10-1109;

(b) is:

(i) a life science establishment; or

(ii) described in NAICS Code 334413, Semiconductor and Related Device

Manufacturing, of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget ~~†~~;

~~_____ (i) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;~~

~~{ _____ (ii) NAICS Code 334413, Semiconductor and Related Device Manufacturing;~~

~~_____ (iii) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus~~

Manufacturing; or

~~_____ (iv) NAICS Code 334517, Irradiation Apparatus Manufacturing; and~~

~~†~~ (c) has at least 50% of its employees in the state for each day of a taxable year the eligible business entity claims a tax credit under ~~{Sections}~~ Section 59-7-614.6 or 59-10-1109 ~~†~~;

~~_____ (2) "Eligible business entity applicant" means a person that applies to the office to become an eligible business entity.~~

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~~(3); and~~

(d) receives a tax credit certificate from the office in accordance with this part.

(4) "Eligible claimant, estate, or trust" means a claimant, estate, or trust that:

(a) enters into an agreement with the office in accordance with this part to receive a tax credit certificate for a tax credit under Section 59-10-1025 or 59-10-1026; and

(b) receives a tax credit certificate from the office in accordance with this part.

(5) "Eligible new state tax revenues" means an increased amount of tax revenues generated as a result of an eligible product or project by an eligible business entity or a new incremental job within the state under the following:

(i) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(ii) Title 59, Chapter 10, Individual Income Tax Act; and

(iii) Title 59, Chapter 12, Sales and Use Tax Act.

~~(4)~~6 "Eligible product or project" means any product or project produced by an eligible business entity that was not produced prior to the date of an agreement with the office under Section ~~{63M-1-2903}~~63M-1-2908:

(a) by the eligible business entity; and

(b) within the state.

~~(5)~~7 "Life science establishment" is as defined in Section 59-10-1025.

(8) "New incremental job within the state" means ~~{an employment position at}~~, with respect to an eligible business entity, an employment position that:

(a) did not exist within the state before:

(i) the eligible business entity entered into an agreement with the office in accordance with this part; and

(ii) the eligible product was produced or the eligible project began;

(b) is not shifted from one location in the state to another location in the state; and

(c) is established to the satisfaction of the office, including by amounts paid or withheld by the eligible business entity under Title 59, Chapter 10, Individual Income Tax Act.

~~(6)~~9 "Office" means the Governor's Office of Economic Development.

~~(7)~~10 "Tax credit" means a tax credit under:

(a) Section 59-7-614.6; ~~{or}~~

(b) Section ~~{59-1-1109}~~

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~~(8) 59-10-1025;~~

~~(c) Section 59-10-1026; or~~

~~(d) Section 59-10-1109.~~

~~(11) "Tax credit applicant" means a person that applies to the office to receive a tax credit certificate under this part.~~

~~(12) "Tax credit certificate" means a certificate issued by the office that:~~

~~(a) lists the name of the {eligible business entity to which the office authorizes a } tax credit certificate recipient;~~

~~(b) lists the {eligible business entity's} tax credit certificate recipient's taxpayer identification number;~~

~~(c) lists the amount of the {eligible business entity's eligible new state tax revenues for the} tax credit certificate recipient's tax credits authorized under this part for a taxable year; and~~

~~(d) includes other information as determined by the office.~~

~~(13) "Tax credit certificate recipient" means:~~

~~(a) an eligible business entity that receives a tax credit certificate in accordance with this part for a tax credit under Section 59-7-614.6 or 59-10-1109; or~~

~~(b) an eligible claimant, estate, or trust that receives a tax credit certificate in accordance with this part for a tax credit under Section 59-10-1025 or 59-10-1026.~~

Section 7. Section **63M-1-2903** is enacted to read:

63M-1-2903. Tax {credit agreement}.

~~(1) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules establishing the conditions that an eligible business entity applicant shall meet to qualify for a tax credit under this part.~~

~~(b) The office shall ensure that the conditions described in Subsection (1)(a) comply with the requirements of this part, including requiring the generation of eligible new state tax revenues.~~

~~(2) (a) Subject to the other provisions of this Subsection (2), the office, with advice from the board, may enter into an agreement authorizing a tax credit to an eligible business entity if an eligible business entity applicant meets the conditions established under Subsection (1).~~

~~(b) The agreement required by this Subsection (2)(a) to qualify for a tax credit~~

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shall:

~~—— (i) detail the requirements that the eligible business entity shall meet to quantify the amount of eligible new state tax revenues;~~

~~—— (ii) require the eligible business entity to retain records supporting a claim for a tax credit for at least four years after the eligible business entity claims a tax credit under this part;~~

~~—— (iii) require the eligible business entity to submit to audits for verification of the tax credit claimed, including audits by the office and by the State Tax Commission; and~~

~~—— (iv) require the eligible business entity to provide tax return information to the office that is necessary for the office to determine the generation of eligible new state tax revenues;~~

~~—— (3) } credits issued by office.~~

~~(1) The office may {grant a} issue tax credit {certificate} certificates under this {section to an eligible business entity:~~

~~—— (a) for the first taxable year in which the eligible business entity enters into an agreement with the office and generates eligible new state tax revenues; and~~

~~—— (b) the two taxable years immediately following the taxable year described in Subsection (3)(a)} part only to the extent that the Legislature expressly sets aside money for the office to issue the tax credit certificates under this part.~~

~~(2) For fiscal year 2011-12 only, the office may issue a total of \$1,300,000 in tax credit certificates in accordance with this part.~~

~~(3) If the total amount of tax credit certificates the office issues in a fiscal year is less than the amount of tax credit certificates the office may issue under this part in a fiscal year, the office may issue the remaining amount of tax credit certificates in a fiscal year after the fiscal year for which there is a remaining amount of tax credit certificates.~~

Section 8. Section **63M-1-2904** is enacted to read:

63M-1-2904. ~~{ Procedure to certify tax credit.~~

~~—— (1) The office shall certify an eligible business entity's} Person may not claim or pass through a tax credit without tax credit certificate.~~

~~A person may not claim or pass through a tax credit unless the person has received a tax credit certificate from the office for the taxable year for which the person claims or passes~~

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through the tax credit.

Section 9. Section 63M-1-2905 is enacted to read:

63M-1-2905. Application process.

(1) A tax credit applicant may annually apply to the office to receive a tax credit certificate by filing an application with the office:

(a) on or before July 1; and

(b) on a form and in the manner prescribed by the office.

(2) The application shall include:

(a) tax return information as required by the office that is necessary for the office to determine eligibility for ~~for a tax credit as provided in this section.~~

~~_____ (2) An eligible business entity applicant}~~ and the amount of a tax credit; and

(b) other documentation as required by the office.

(3) As part of the application required by this section, a tax credit applicant shall sign a separate document that expressly directs and authorizes the State Tax Commission to disclose to the office the tax credit certificate recipient's tax returns and other information concerning the tax credit certificate that:

(a) would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and

(b) are necessary for the office to determine eligibility for and the amount of a tax credit under this part.

(4) Upon receipt of the document described in Subsection (3), the State Tax Commission shall provide the office with:

~~_____ (a) an application for a tax credit certificate, on a form and in the manner designated;~~ the tax returns and other information requested by the office; ~~and~~

~~_____ (b) documentation that the eligible business entity applicant has satisfied the conditions outlined in the agreement described in Section 63M-1-2903.~~

~~_____ (3)}~~ that the tax credit applicant directed or authorized the State Tax Commission to provide to the office, including information necessary to determine eligibility for the amount of a tax credit.

(5) If the office determines that the information a tax credit applicant provides is inadequate to provide a reasonable justification for authorizing a tax credit, the office shall:

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(a) deny the tax credit; or

(b) inform the ~~{eligible business entity}~~ tax credit applicant that the information is inadequate and ask the ~~{eligible business entity}~~ tax credit applicant to submit new or additional documentation.

~~{(4) If the office determines that there is reasonable justification for authorizing a tax credit, the office shall, for each year the office grants}~~ Section 10. Section 63M-1-2906 is enacted to read:

63M-1-2906. Criteria for tax credits.

(1) A tax credit applicant shall establish as part of the application required by Section 63M-1-2905 that the tax credit applicant:

(a) meets all of the criteria to receive the tax credit for which the tax credit applicant applies, except for the requirement to obtain a tax credit certificate{;

~~— (a) determine the amount of eligible new state tax revenues generated by the eligible business entity for the taxable year;~~

~~— (b) {; and~~

(b) will provide a long-term economic benefit to the state.

(2) The office may not issue a tax credit certificate to a tax credit applicant that fails to meet the requirements of Subsection (1)(a).

Section 11. Section 63M-1-2907 is enacted to read:

63M-1-2907. Rulemaking authority.

The office shall, by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish:

(1) criteria to prioritize the issuance of tax credits amongst tax credit applicants in a manner consistent with this part; and

(2) procedures for documenting the office's application of the criteria described in Subsection (1).

Section 12. Section 63M-1-2908 is enacted to read:

63M-1-2908. Agreement between tax credit applicant and office -- Tax credit certificate.

(1) Subject to the other provisions of this part, the office, with advice from the board, shall determine on or before the August 1 immediately following the July 1 described in

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Subsection 63M-1-2905(1):

(a) the tax credit applicant or applicants to which a tax credit certificate may be provided; and

(b) the amount of tax credit a tax credit applicant may receive.

(2) The office, with advice from the board, may enter into an agreement to grant a tax credit certificate to a tax credit applicant selected in accordance with this part, if the tax credit applicant meets the conditions established in the agreement and under this part.

(3) The agreement described in Subsection (2) shall:

(a) detail the requirements that the tax credit applicant shall meet prior to receiving a tax credit certificate;

(b) require the tax credit certificate recipient to retain records supporting a claim for a tax credit for at least four years after the tax credit certificate recipient claims a tax credit under this part; and

(c) require the tax credit certificate recipient to submit to audits for verification of the tax credit claimed, including audits by the office and by the State Tax Commission.

Section 13. Section 63M-1-2909 is enacted to read:

63M-1-2909. Issuance of tax credit certificates.

(1) For a tax credit applicant that seeks to claim a tax credit under Section 59-7-614.6, 59-10-1025, or 59-10-1109, the office may issue a tax credit certificate to the ~~eligible business entity that states the amount of eligible new state tax revenues~~ tax credit applicant:

(a) for the first taxable year for which the tax credit applicant qualifies for the tax credit and enters into an agreement with the office; and

(b) for two taxable years immediately following the taxable year described in

Subsection (1)(a).

(2) For a tax credit applicant that seeks to claim a tax credit under Section 59-10-1026, the office may issue a tax credit certificate to the tax credit applicant only for the taxable year ~~and~~

~~(c) } for which the tax credit applicant qualifies for the tax credit and enters into an agreement with the office.~~

(3) The office shall provide a duplicate copy of ~~the~~ each tax credit certificate to the State Tax Commission.

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~~{(5) An eligible business entity may not claim or pass through a tax credit unless the eligible business entity has a tax credit certificate issued by the office.~~

~~—— (6) An eligible business entity that receives a tax credit certificate may claim or pass through a tax credit, as provided in Section 59-7-614.6 or 59-10-1109.~~

~~—— (7) Upon request of the office, the State Tax Commission shall provide the office with summary information regarding eligible new state tax revenues generated by an eligible business entity.~~

~~—— Section 9}~~Section 14. Section ~~{63M-1-2905}~~63M-1-2910 is enacted to read:

~~{63M-1-2905}~~63M-1-2910. **Report to the Legislature -- Study by legislative committees.**

(1) The office shall annually report to the ~~{Legislature's }~~Workforce Services and Community and Economic Development Interim Committee and Revenue and Taxation Interim Committee describing:

(a) the total amount listed ~~{as eligible new state tax revenues }~~on tax credit certificates the office issues ~~{to eligible business entities}~~under this part;

(b) the criteria that the office uses in ~~{determining whether an eligible business entity generates eligible new state tax revenues}~~prioritizing the issuance of tax credits amongst tax credit applicants under this part; and

(c) the economic impact on the state related to providing tax credits under this part.

(2) (a) On or before November 1, ~~{2016}~~2011, and every five years after November 1, ~~{2016}~~2011, the ~~{ Legislature's }~~ Workforce Services and Community and Economic Development Interim Committee and Revenue and Taxation Interim Committee shall:

(i) study the tax credits allowed under Sections 59-7-614.6, 59-10-1025, 59-10-1026, and 59-10-1109; and

(ii) make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) The study under Subsection (2)(a) shall include an evaluation of:

(i) the cost of the tax credits under Sections 59-7-614.6 ~~{or}~~, 59-10-1025, 59-10-1026, and 59-10-1109;

(ii) the purposes and effectiveness of the tax credits; and

(iii) the extent to which the state benefits from the tax credits.

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Section ~~{10}~~15. Section ~~{63M-1-2906}~~63M-1-2911 is enacted to read:

~~{63M-1-2906}~~63M-1-2911. Reports of tax credits.

(1) Before December 1 of each year, the office shall submit a report to the Governor's Office of Planning and Budget, the Office of Legislative Fiscal Analyst, and the Division of Finance identifying:

(a) the total amount listed ~~{as eligible new state tax revenues}~~ on tax credit certificates the office issues ~~{to eligible business entities}~~ under this part; and

(b) the criteria that the office uses in ~~{determining whether an eligible business entity generates eligible new state tax revenues}~~ prioritizing the issuance of tax credits amongst tax credit applicants.

(2) By the first business day of each month, the office shall submit a report to the Governor's Office of Planning and Budget, the Office of Legislative Fiscal Analyst, and the Division of Finance identifying:

(a) each new agreement entered into by the office since the last report;

(b) the total amount listed ~~{as eligible new state tax revenues}~~ on tax credit certificates the office issues ~~{to eligible business entities}~~ under this part; and

(c) the criteria that the office uses in ~~{determining whether an eligible business entity generates eligible new state tax revenues}~~

~~Section 11}~~ prioritizing the issuance of tax credits amongst tax credit applicants.

Section 16. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the following sums of money are appropriated from resources not otherwise appropriated out of the funds or accounts indicated for the fiscal year beginning July 1, 2011 and ending June 30, 2012. These are additions to amounts previously appropriated for fiscal year 2012.

To Governor's Office of Economic Development - Administration

From General Fund - One-time \$200,000

Schedule of Programs:

Governor's Office of Economic Development \$200,000

It is the intent of the Legislature that the appropriation be spent to administer the tax credits enacted in this bill.

Section 17. Effective date -- Retrospective operation.

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(1) Except as provided in Subsection (2), this bill takes effect on ~~July 1~~ May 10, 2011.

(2) The amendments to and enactments of the following sections have retrospective operation for a taxable year beginning on or after January 1, 2011:

(a) Section 59-7-614.6;

(b) Section ~~59-10-1022~~ 59-10-1025;

(c) Section ~~59-10-1025~~ 59-10-1026; and

(d) Section 59-10-1109.